IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4072 of 2007()

CR NO. 32/07 OF ARYANAD EXCISE RANGE

PETITIONER/ACCUSED

SAVITHRI, D/O.CHELLAMMA, LAKSHAM VEEDU,
KOTTARAKKARA MURI, ARYANAD VILLAGE.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4072 of 2007

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Dated this the 6th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. The petitioner was intercepted on 12.6.2007. She was allegedly keeping 2 litres of arrack in her possession. She could not be arrested as there was no lady officer along with the Excise party. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. At any rate, there is no necessity to insist on arrest and incarceration of the petitioner now, submits the counsel.

2. The application is opposed by the learned Prosecutor. He submits that there are no circumstances justifying the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is an eminently fit case where petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the regular and ordinary course.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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